

- secondly, the decision of the Bureau introduces a tax by imposing a special levy amounting to 5 % of the nominal amount of the pension, whereas the introduction of a tax does not fall within the competence of the Bureau under Article 223(2) TFEU.
- 2. Second plea in law, alleging infringement of essential procedural requirements.
  - first, the Bureau is criticised for having adopted the decision of the Bureau without complying with the rules imposed by Article 223 TFEU.
  - secondly, the decision of the Bureau is insufficiently reasoned and thus infringes the duty to state reasons laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.
- 3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations.
  - first, the decision of the Bureau infringes acquired rights and future entitlements resulting from general legal principles and the Statute, which expressly requires that those rights and entitlements be maintained 'in full' (Article 27).
  - secondly, the decision of the Bureau infringes the principle of legitimate expectations.
- 4. Fourth plea in law, alleging infringement of the principle of proportionality and of the principles of equal treatment and non-discrimination.
  - first, the infringements of the applicant's rights are disproportionate to the objectives pursued by the decision of the Bureau.
  - secondly, the decision of the Bureau must be declared inapplicable on the basis that it infringes the principles of equal treatment and non-discrimination.
- 5. Fifth plea in law, alleging infringement of the principle of legal certainty and the absence of transitional measures.
  - first, the decision of the Bureau infringes the principle of legal certainty in that it is unlawfully coupled with retroactive effect.
  - secondly, the decision of the Bureau infringes the principle of legal certainty in that it failed to lay down transitional measures.

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**Action brought on 18 October 2019 — Díaz de Mera García Consuegra v Parliament**

**(Case T-723/19)**

(2019/C 423/81)

*Language of the case: French*

**Parties**

*Applicant:* Agustin Díaz de Mera García Consuegra (Ávila, Spain) (represented by: A. Schmitt and A. Waisse, lawyers)

*Defendant:* European Parliament

**Form of order sought**

The applicant claims that the Court should:

- declare the action admissible;

- where necessary, by way of measures of organisation of procedure or measures of inquiry in the case, order the European Parliament to disclose the opinions given by the European Parliament Legal Service on 16 July 2018 and 3 December 2018, although perhaps not on those exact dates, but in any event before the adoption of the decision taken by the Bureau of the Parliament on 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (O) 2018 C 466, 28.12.2018, p. 8);
- annul, on the basis of Article 263 TFEU, the contested individual decision, notified to the applicant by the Members' Salaries and Social Entitlements Unit of the Directorate General for Finance of the European Parliament concerning the applicant's entitlement to his additional (voluntary) pension in September 2019 in so far as that decision introduced a special levy of 5 % of the nominal amount of the additional (voluntary) pension payable to the applicant as established by the decision of the Bureau of 10 December 2018 referred to above;
- declare that the decision taken by the Bureau of the Parliament on 10 December 2018 referred to above is inapplicable under Article 277 TFEU in so far as it amends Article 76 of the Implementing Measures for the Statute for Members of the European Parliament and, specifically, in so far as it imposes a special levy of 5 % of the nominal amount of the additional (voluntary) pension payable from 1 January 2019;
- order the Parliament to pay the costs.

### **Pleas in law and main arguments**

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the Bureau has no competence *ratione materiae*.
  - first, the decision of the Bureau of 10 December 2018 ('the decision of the Bureau') infringed the Statute for Members of the European Parliament adopted by decision of the European Parliament of 28 September 2005, 2005/684/EC, Euratom, (O) 2005 L 262, p.1) ('the Statute'). The decision of the Bureau is in particular contrary to Article 27 of the Statute which requires that 'acquired rights' and 'future entitlements' must be maintained.
  - secondly, the decision of the Bureau introduces a tax by imposing a special levy amounting to 5 % of the nominal amount of the pension, whereas the introduction of a tax does not fall within the competence of the Bureau under Article 223(2) TFEU.
2. Second plea in law, alleging infringement of essential procedural requirements.
  - first, the Bureau is criticised for having adopted the decision of the Bureau without complying with the rules imposed by Article 223 TFEU.
  - secondly, the decision of the Bureau is insufficiently reasoned and thus infringes the duty to state reasons laid down in the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union.
3. Third plea in law, alleging infringement of acquired rights and future entitlements and of the principle of legitimate expectations.
  - first, the decision of the Bureau infringes acquired rights and future entitlements resulting from general legal principles and the Statute, which expressly requires that those rights and entitlements be maintained 'in full' (Article 27).
  - secondly, the decision of the Bureau infringes the principle of legitimate expectations.

4. Fourth plea in law, alleging infringement of the principle of proportionality and of the principles of equal treatment and non-discrimination.
  - first, the infringements of the applicant's rights are disproportionate to the objectives pursued by the decision of the Bureau.
  - secondly, the decision of the Bureau must be declared inapplicable on the basis that it infringes the principles of equal treatment and non-discrimination.
5. Fifth plea in law, alleging infringement of the principle of legal certainty and the absence of transitional measures.
  - first, the decision of the Bureau infringes the principle of legal certainty in that it is unlawfully coupled with retroactive effect.
  - secondly, the decision of the Bureau infringes the principle of legal certainty in that it failed to lay down transitional measures.

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**Action brought on 18 October 2019 — Ayuso v Parliament**

**(Case T-724/19)**

(2019/C 423/82)

*Language of the case: French*

**Parties**

*Applicant:* Pilar Ayuso (Madrid, Spain) (represented by: A. Schmitt and A. Waisse, lawyers)

*Defendant:* European Parliament

**Form of order sought**

The applicant claims that the Court should:

- declare the action admissible;
- where necessary, by way of measures of organisation of procedure or measures of inquiry in the case, order the European Parliament to disclose the opinions given by the European Parliament Legal Service on 16 July 2018 and 3 December 2018, although perhaps not on those exact dates, but in any event before the adoption of the decision taken by the Bureau of the Parliament on 10 December 2018 amending the Implementing Measures for the Statute for Members of the European Parliament (OJ 2018 C 466, 28.12.2018, p. 8);
- annul, on the basis of Article 263 TFEU, the contested individual decision, notified to the applicant by the Members' Salaries and Social Entitlements Unit of the Directorate General for Finance of the European Parliament concerning the applicant's entitlement to her additional (voluntary) pension in September 2019 in so far as that decision introduced a special levy of 5 % of the nominal amount of the additional (voluntary) pension payable to the applicant as established by the decision of the Bureau of 10 December 2018 referred to above;
- declare that the decision taken by the Bureau of the Parliament on 10 December 2018 referred to above is inapplicable under Article 277 TFEU in so far as it amends Article 76 of the Implementing Measures for the Statute for Members of the European Parliament and, specifically, in so far as it imposes a special levy of 5 % of the nominal amount of the additional (voluntary) pension payable from 1 January 2019;